occured in 1872. Even subsequently the appellant continued to be in possession both at the Potigi Settlement of 1882 and for twelve years afterwards. During all this time the register nominally stood in the name of the defendant's father. At the settlement above referred to, the villages in question were formed into two circles called Agile and Jakkanahalli. The appellant was doing the duties of both until 1894, when it was decided that he should hold only one namely Jakkanahalli, and surrender the other (Agile) to the respondent. The register of both was nevertheless made out in the name of the respondent alone, and the appellant was referred to a regular suit. The present suit has accordingly been instituted. It must be noted that the appellant has another or younger brother by name Seshagiraiya. Both the Assistant Commissioner, and the Deputy Commissioner have dismissed the suit on the ground that Seshagiraiya is as much entitled to a share as the appellant and that the villages cannot be re-distributed so as to form three circles in place of the two constituted at the Potigi Settlement. The Deputy Commissioner differring from the Assistant Commissioner has further held that the suit is governed by the six years rule and is consequently barred by limitation. Hence this appeal.

2. The respondent's contention was that the shanbhogi in dispute was his father's self acquisition, having been reacquired by him in 1848, that is, some years after the previous officiator's dismissal in 1826. This he failed to substantiate and the authorities below have correctly found with reference to the documentary evidence on record that the shanbhogi is an ancestral and hereditary office. As already observed, the appellant was in possession of all the villages from 1872 to 1894 and he continues to this day in the enjoyment of such of them as are included in one of the two circles which for administrative convenience were constituted at the settlement of 1882. His case is then clearly distinguishable from that of the third brother Seshagiraiya whose possible claims should not have been imported into this suit and relied upon as an argument against the admissibility of the appellant's claim. Of the three brothers, the eldest was the nominal barawarddar, the second was for several decades the real officiator and the third has apparently never had anything to do either with the office or with the duties appertaining to it. That being so, there is nothing to prevent one of the two circles being adjudged by name as well as in reality to the appellant and the other being allowed to remain in the name and possession of the respondent. No question of division or re-distribution really arises in this case.

3. Having allotted one of the circles to the appellant and the other to the respondent the register should have as a matter of course followed that arrangement instead of the appellant being relegated to a regular suit in 1894. That was a needless technicality and does not prejudicially affect the claims of the appellant who continues to be in the enjoyment of the circle (Jakkanahalli) then assigned to him. All that the appellant wants is an official recognition of his status as the shanbhog of the said circle. Both the circles cannot be held by a single individual. Hence the disposal of one of them in favor of the respondent and of the other in that of the appellant. To enable the registry being made out accordingly there was really no need for a formal suit; such being the view that Government entertain of the case, it is clear that the refusal of the appellant's prayer on the ground of limitation cannot be supported.

4. Neither the existence of a third brother nor the question of limitation thus stands in the way of the appellant being registered as the shanbhog of the circle of which he is in charge.

5. For the above reasons the appeal is allowed and the relief asked for by the appellant granted.

No. R. 10083—*R. M.* 169-05-4, *dated Bangalore, 25th January* 1906.

Copy of the above is forwarded to the Deputy Commissioner of the Hassan District, together with the records received with his letter No. 434—S., dated the 23rd October 1905.

Appeal No. 46 *of* 1905-06.

Appellant	*Versus*	*Respondent*
Venkataramanaiya		Krishnappa.

Subject.

Claim to the shanbhogi office of Hebbari and other villages in the Chintamani Taluk.

The facts of the case appear sufficiently from the following :—

Decision.

This is an appeal from an order of the Deputy Commissioner declining to recognize the appellant's claim to the office of shanbhog of Hebbari and certain other villages in the Chintamani Taluk. The appellant is the son of one Venkatachellaiya who was removed from the office in 1891 on a charge of embezzlement. Considering the enormity of the offence the order of dismissal contained a direction that the family should for ever be debarred from holding the office and that a competent person unconnected with it should be appointed to succeed. In persuance of that order, the respondent was first appointed on probation and then confirmed.

2. In 1899, the case came up before Government on an appeal from one Timmarayappa who endeavoured to oust the respondent on the grounds, firstly that he had himself a preferential claim as the descendant of one Shamanna who had been removed in 1854 before the appointment of Venkatachellaiya and secondly that the respondent being the son-in-law of Venkatachellaiya and as such closely connected with his family, his appointment was opposed to the orders of 1891 and could not be supported. Government held that the respondent should be allowed to hold the office during his life time and that Timmarayappa's claim should be taken into consideration on the occurrence of a vacancy.

3. Subsequently, the respondent was for sometime improperly getting the duties of the office performed for him by his brother-in-law the present appellant. When this was brought to notice, the Deputy Commissioner in concurrence with the Assistant Commissioner in charge of the taluk directed that the unauthorized and irregular arrangement should immediately cease, and that if the respondent did not himself enter upon the duties of the office within a month the question of his displacement by Timmarayappa should receive attention. The appellant urged his own claim independently of his relationship to the respondent, but this was disallowed. He now contends that his father's dismissal and the forfeiture of the family hak were ordered on insufficient grounds and that the question should now be fully gone into and the Deputy Commissioner's order of 1891 set aside. Government decline to accede to this contention which is as unreasonable as it is belated. The record shows that the appellant's father helped himself to a large sum of Government money, that he was nevertheless very leniently dealt with in consequence of his old age, and that for years afterwards no action was taken either by him or by any member of his family to have the order then passed, cancelled. The respondent ought not to have been suffered to officiate by proxy, and to that proxy being none other than the son of the dismissed shanbhog himself, there were most serious objections. The conduct of the respondent was highly reprehensible. If tolerated, it would practically nullify the punishment awarded to the erring shanbhog and his family in 1891. The respondent seems to favor the cause of his brother-in-law the appellant. This is not as it should be, and it can under no circumstances justify the restoration to the latter of an office which so far back as 1891, he was by a distinct order passed in strict accordance with rules debarred from succeeding to. Government have no hesitation in holding that the Deputy Commissioner's order appealed from is correct and that there are no grounds for interference with it.

4. The appeal fails and is accordingly rejected.

Memo No. R. 9905—*R. M.* 97-05-5, *dated Bangalore, 24th January* 1906.

Copy of the above is forwarded to the Deputy Commissioner of the Kolar District, together with the records received with his letter No. 2837—205, dated the 30th September 1905.

Review Application No. 4 of 1905-06.

Petitioner	*Versus.*	*Counter-Petitioners*
Malera Rama *bin* Krishna		1. Subraya *bin* Krishnappa 2. Krishnappa *bin* Subraya 3. Patel Dyavaiya *bin* Krishnappa 4. Sinappa *bin* Rangappa

Subject.

Application for review of Government Order No. 1315—P. F. 152-03, dated the 20th April 1904, confirming the sale held for arrears of revenue of lands Survey Nos. 37 and 38 of Attikodagi village in the Koppa Taluk.

Order.

The petitioner was the purchaser of a portion of the lands in question from the 2nd counter-petitioner. Though thus interested in the continuance of the occupancy, he failed either to obtain a transfer of the khate in his name or to get his name entered in the special register maintained for the purpose nor did he take steps to see that the assessment did not fall into arrears. Though not entitled to a notice, it is evident from the record that he had ample notice of the sale proceedings from first to last, of which however he wilfully failed to take advantage. His subsequent assertion that he had been misled into the belief, that what was being forfeited and sold was some other land of the khatedar in which he possessed no interest, was clearly an afterthought and must be rejected as wholly incredible. He would not meet the demand though he had an abundant opportunity of doing so. On the contrary he wished it to be satisfied either by his vendor the 2nd counter-petitioner or by his mortgagee the 4th counter-petitioner. No such payment having been made, the lands were sold in strict accordance with law. The petitioner is not entitled to have that sale set aside. That being so, Government see no reason to reconsider the order sought to be reviewed. This application is therefore rejected.

Memo No. R. 9932—*R. M.* 48-05-4, *dated Bangalore* 24*th January* 1906.

Copy to the Deputy Commissioner of the Kadur District together with the records received with his docket No. 188, dated the 1st September 1905.